

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

LEE YOUNG AND CHARLES J. MIKHAIL

PLAINTIFFS

VS.

CIVIL ACTION NO. 1:09-cv-669

RICHARD F. SCRUGGS, INDIVIDUALLY;
SMBD, INC., DIRECTLY AND AS SUCCESSOR
IN INTEREST TO SCRUGGS, MILLETTE BOZEMAN,
AND DENT A/K/A SMBD, AND AS SUCCESSOR IN
INTEREST TO SCRUGGS LEGAL, P.A.; AND
DOE DEFENDANTS 1-20

DEFENDANTS

DEFENDANTS' SUPPLEMENT TO MOTION TO DISMISS

Defendants Richard F. Scruggs ("Scruggs") and SMBD, Inc. ("SMBD") (collectively, "Defendants"), supplement their request for this Court to dismiss Plaintiffs' claims. In support of their Motion to Dismiss, Defendants state as follows:

1. Defendants have previously filed their Motion to Dismiss, Brief in Support of Motion to Dismiss and Rebuttal Brief (Dkt. Nos. 13, 14 and 21, respectively).
2. Defendants have also submitted their Motion to Strike Return of Service and their Amended Motion to Strike Return of Service (Dkt. Nos. 25 and 27, respectively).
3. Plaintiffs recently submitted out of time a Return of Service for Defendant Richard Scruggs (Dkt. No. 31). Defendants addressed the deficiencies for this Return of Service in their Response to Motion to Deem Service Sufficient and Brief in Support of Response (Dkt. Nos. 32 and 33, respectively).
4. Because Defendants have filed a Motion to Dismiss for Defendant Richard Scruggs, which matter is currently pending before the Court, the Return of Service which Plaintiffs recently filed does not created the need to file another response under FRCP 12. However, out of an

abundance of caution, Defendants submit this Supplement to Motion to Dismiss and incorporate all arguments and grounds in favor of dismissal of Plaintiffs' claims as stated in their motions, responses and related briefing papers previously filed in this matter.

5. In support, Defendants rely on the pleadings and other papers filed in this matter.

WHEREFORE, PREMISES CONSIDERED, Defendants request that this Court dismiss Plaintiffs' claims against them and tax all costs of Court against Plaintiffs. Defendants request such other relief as the Court deems appropriate under the circumstances.

THIS, the 16th day of February, 2010.

RICHARD F. SCRUGGS AND SMBD, INC.

/s/ J. Cal Mayo, Jr.

J. CAL MAYO, JR. (MB NO. 8492)

POPE S. MALLETT (MB NO. 9836)

PAUL B. WATKINS (MB NO. 102348)

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CERTIFICATE OF SERVICE

I, J. CAL MAYO, JR., one of the attorneys for Defendants Richard F. Scruggs and SMBD, Inc., do certify that I have electronically filed the foregoing document with the Clerk of the Court using the ECF system, who forwarded a copy of same to the following attorneys:

James R. Reeves, Jr.
Matthew G. Mestayer
Lumpkin, Reeves & Mestayer, PLLC
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ATTORNEYS FOR PLAINTIFFS

THIS, the 16th day of February, 2010.

/s/ J. Cal Mayo, Jr.
J. CAL MAYO, JR.